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APL/HAMBURG SÜD  
SPACE CHARTER AGREEMENT

FMC Agreement No. **012402**

A Space Charter Agreement

Expiration Date: See Article 8

Not Previously Published



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*P.A.*

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#### ARTICLE 1: FULL NAME OF THE AGREEMENT

1.1 The full name of this Agreement is the APL/Hamburg Süd Space Charter Agreement (hereinafter referred to as the "Agreement").

#### ARTICLE 2: PARTIES TO THE AGREEMENT

The Parties to the Agreement are the following ocean common carriers:

APL Co. Pte Ltd and American President Lines, Ltd. (acting as one party and referred to as "APL")

American President Lines, Ltd.  
16220 N. Scottsdale Rd., Suite 300  
Scottsdale, AZ 85254-1781, United States of America

APL Co. Pte Ltd  
9 North Buona Vista Drive  
#14-01 The Metropolis Tower 1  
Singapore 138588

and

Hamburg Süd Amerikanische Dampfschiffahrts-Gesellschaft KG (referred to as "Hamburg Süd")  
Willy-Brandt-Straße 59-61, 20457  
Hamburg, Germany

#### ARTICLE 3: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to provide for the charter of slots by APL to Hamburg Süd on vessels APL operates in the Trade (as hereinafter defined) and to authorize the Parties to enter into arrangements with respect to the chartering of such space.

#### ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The geographic scope of this Agreement is the trade from ports in China, Hong Kong, and Korea to ports in the United States Pacific Northwest Coast (the "Trade").

#### ARTICLE 5: AGREEMENT AUTHORITY

5.1 APL shall sell to Hamburg Süd and Hamburg Süd shall purchase from APL slots for 400 TEUs on each weekly eastbound sailing in the Trade of the vessel string operated by APL in the Trade pursuant to FMC Agreement No. 012194 currently called the NP2. It is anticipated that the number of slots to be purchased and sold may be adjusted at certain times/seasons, and the Parties are authorized to make such adjustments within the 400 TEU maximum without the need

to file an amendment. Such slots shall be sold and purchased on such terms and conditions as the Parties may from time to time agree, and may if the parties agree include slots for reefers as well as dry cargo. The Parties may agree on the charter by APL to Hamburg Süd of additional slots for particular voyages on such terms and conditions as they may agree, subject to space availability and APL's rights and obligations as a party to FMC Agreement No. 012194.

5.2 Subject to APL's rights and obligations as vessel operator and as a party to FMC Agreement No. 012194, the Parties may discuss matters relating to the sailing patterns, ports to be called, vessel characteristics, capacities, itineraries, schedules, the number, frequency, and character of sailings at ports, transit times, and all other matters related to the scheduling and coordination of the NP2 vessels. APL reserves the authority to revise the port rotation of the NP2 string in its sole discretion, but will provide Hamburg Süd with 45 days advance notice of any significant change. The provision of such notice, or failure to do so, shall not afford Hamburg Süd any right to disapprove, delay, or otherwise interfere with the change in port rotation.

5.3 Hamburg Süd shall be entitled to use its slot allocations in TEUs or weight (based on 11 tons per TEU), whichever is reached first, from a port in China, Hong Kong, or Korea to a port in the United States Pacific Northwest, without any geographical restrictions regarding the origin or destination of the cargo. Provided, however, that the deadweight available to Hamburg Süd may be restricted by APL for operational reasons at ports subject to draft limitations, in which case APL shall inform Hamburg Süd in advance before restricting the deadweight. No loss of space shall be attached to slot usage for high cube, which shall be counted as two (2) TEUs or as otherwise agreed in writing in the slot charter agreement by the parties. The Parties may also separately establish sub-allocations for reefer containers. Unless otherwise agreed, no coastal cargoes will be accepted under this Agreement.

5.4 Hamburg Süd shall not assign, charter, or sub-charter any slots that APL has provided to it under this Agreement, without the prior written consent of APL, which shall not be unreasonably refused.

5.5 The Parties shall settle financial obligations to each other under this Agreement at such intervals as they may agree.

5.6 Subject to APL's rights and obligations as vessel operator and as a party to FMC Agreement No. 012194, the Parties may discuss and agree on matters relating to port terminals in the Trade.

#### ARTICLE 6: CHARTER PARTY TERMS

The Parties are authorized to make and implement agreements concerning all matters relating to the terms and conditions of charter parties relating to activities undertaken pursuant to this agreement and the use of slots that are sold and the cargo carried therein, including, without limitation, terms and conditions concerning: the consideration for such slots, procedures applicable to the above rights and responsibilities with respect to port omissions, drydocking, and other matters affecting adherence to port schedules; rights and responsibilities concerning

shut out containers; participation in voluntary government programs concerning security, safety or similar matters, such as the Customs-Trade Partnership Against Terrorism; vessel operation and maintenance; declarations of cargo weight; cargo operations; responsibility for loss, damage and claims, including with respect to cargo and equipment; stowage planning; permissible and restricted cargo; special cargo; bills of lading; indemnity for cargo claims, containers, and other indemnities, including with respect to sub-chartering slots; treatment of hazardous cargoes; force majeure; owners and bareboat charterers; insurance; trading limits; salvage; general average; liens; war; stowaways; epidemics; government sequestration or requisition of all or portions of vessels, including pursuant to the U.S. Government's Voluntary Intermodal Sealift Agreement Program; Master's responsibility; super cargo; victualling; and certificates.

#### ARTICLE 7: ADMINISTRATION AND VOTING

7.1 All decisions made pursuant to this Agreement shall be by unanimous agreement, except as the Parties may otherwise provide. However, notwithstanding anything else in this Agreement, Hamburg Süd acknowledges that the APL string referenced in Article 5.1 above is subject to FMC Agreement 012194. Nothing in this Agreement shall be read to derogate from APL's rights and obligations under Agreement 012194, or to require that Hamburg Süd consent to decisions made by the parties to Agreement 012194 under that agreement.

7.2 Any modification or amendment of this agreement must be in writing and signed by the authorized representative of each Party, and is subject to applicable Federal Maritime Commission filing and effectiveness requirements.

7.3 The following persons are authorized to subscribe to and file this Agreement and any accompanying materials, as well as any subsequent modifications to this Agreement which may be adopted by the Parties:

- (a) Any authorized officer of each of the Parties; and
- (b) Legal counsel for any of the Parties.

7.4 The Parties may implement this Agreement by decisions made or actions taken at meetings or by telephone, fax, e-mail, or exchange of other writings.

#### ARTICLE 8: DURATION AND TERMINATION OF AGREEMENT

8.1 This Agreement shall be effective as of the date it becomes effective under the U.S. Shipping Act of 1984, codified at 46 U.S.C. § 40101 et seq., and shall remain in effect until March 31, 2017.

8.2 Notwithstanding Article 8.1., if at any time during the term of the Agreement there shall be a change in the control or a material change in the ownership of any one Party (the Party so affected being referred to in this sub-clause 8.2 only as the Affected Party) and the other Party is of the opinion arrived at in good faith that such change is likely to materially prejudice the cohesion or viability of this Agreement or the other Party(ies)'s commercial interest, then any

Party may within six months of the coming into effect of such change give three months' notice in writing to other Party(ies) of its intention to withdraw from this Agreement. For this Clause, APL Co. Pte. Ltd and American President Lines, Ltd. are each an individual Party so that a change in ownership of either one stipulates a right of withdrawal for Hamburg Süd.

8.3 Notwithstanding the provisions in Article 8.1 and 8.2 above, this Agreement may be terminated if at any time during the term of this Agreement, either Party is dissolved or becomes insolvent or makes a general assignment arrangement or composition with or for the benefit of its creditors or has a winding-up order made against it or enters into liquidation whether voluntarily or compulsorily or seeks or becomes the subject of the appointment of an administrator, receiver, trustee, custodian, or other similar official for it or for all or substantially all of its assets or is affected by any event or similar act or which under the applicable laws of the jurisdiction where it is constituted has an analogous affect or takes any action in furtherance of any of the foregoing acts (other than for the purpose of a consolidation, reconstruction or amalgamation previously approved in writing by the affected Party), and such event or occurrence is or may be materially detrimental to this Agreement & to payment of sums that may be owed, other than those that may be disputed in good faith, and may not be paid in full or may be delayed in payment, then the affected Party may give written notice terminating the Agreement with immediate effect or suspending for such period, as the affected Party in its sole discretion deems appropriate, this Agreement or any part thereof, but without prejudice to any accrued obligations arising hereunder prior to the provision of such written termination notice or to the continuation of this Agreement between the Parties. For this Clause, APL Co. Pte. Ltd and American President Lines, Ltd. are each an individual Party so any of the events listed before stipulate a right to terminate for Hamburg Süd.

8.4 In the case of a material breach by either Party of this Agreement, including for the purpose of any implementing agreements, then that Party shall correct that breach within thirty (30) days from the receipt of written notice (specifying such breach or failure of performance) sent by the other Party(ies). In the event that the breach is not resolved within 30 days thereafter, then the nonbreaching Party(ies) has/have the right to terminate the Agreement effective thirty (30) days from the date such notice has been received.

8.5 Notwithstanding Article 8.1, this Agreement shall terminate in the event the Service or the G6 Alliance is terminated or suspended, whichever is earlier. The Slot Operator shall advise the Slot Charterer of any such termination at least ninety (90) days in advance, unless the suspension of the Service is decided to take place on shorter notice.

8.6 Any termination or withdrawal hereunder shall be without prejudice to any Party's respective financial obligations to the other Party(ies) as of the date of termination or withdrawal, and a non-defaulting Party retains the right to bring a claim against the defaulting Party for any loss and/or damage caused by or arising out of such default.

#### ARTICLE 9: CONFIDENTIALITY

Except as required by law, activities under this Agreement shall be regarded as confidential to the Parties and no Party acting for itself or on behalf of its employees, agents, and subcontractors

shall divulge any non-public information concerning the business and affairs of the other Party that it shall have obtained or received as a result of this Agreement or any discussions under it or leading to its formation. The obligations of this Article survive termination of this Agreement.

#### ARTICLE 10: GOVERNING LAW AND ARBITRATION

10.1 The interpretation, construction, and enforcement of this Agreement, and all rights and obligations between the Parties under this Agreement, shall be governed by the laws of England, provided, however, that nothing herein shall relieve the Parties from the applicable requirements of the U.S. Shipping Act of 1984, codified at 46 U.S.C. § 40101 et seq.

10.2 Any dispute or claim arising out of or in connection with this Agreement which cannot be resolved amicably shall be referred to arbitration in London (unless varied with the unanimous consent of the Parties involved) in accordance with the Arbitration Act of 1996 or any statutory modification or reenactment thereof. The arbitration shall be conducted in English in accordance with the LMAA (London Maritime Arbitrators Association) rules current at the time when the arbitration proceedings are commenced, and each arbitrator shall be a member of the LMAA.

10.3 Where the amount in dispute does not exceed US\$ 200,000, the arbitration will proceed on a documents and written submission basis only. However, oral evidence may be allowed in exceptional cases at the discretion of the arbitrator(s).

10.4 For all disputes or differences whatever the amount claimed, there shall be no discovery, but, if in the opinion, of the arbitrator(s) either of the arbitrating Parties has failed to produce any relevant document(s), he may order the production of such document(s) and may indicate to the Party to whom the order is directed that if, without adequate explanation, he fails to produce the document(s) it will not favor that Party's case. The term "relevant document" includes all documents relevant to the dispute or difference, whether or not favorable to the Parties holding them. It includes witness statements, expert reports and the like on which the Party intends to rely, but does not include documents which are not legally disclosable.

#### ARTICLE 11: MEMBERSHIP

Membership in this Agreement is limited to the Parties hereto, except that additional parties may be admitted by unanimous consent of the Parties, and subject to compliance with Shipping Act requirements.

#### ARTICLE 12: SEVERABILITY

12.1 Should any term or provision of this Agreement be held invalid, illegal or unenforceable, the remainder of this Agreement, and the application of such term or provision to persons or circumstances other than those as to which it is invalid, illegal or unenforceable, shall not be affected thereby; and each term or provision of this Agreement shall be valid, legal and enforceable to the full extent permitted by law.

#### ARTICLE 13: MISCELLANEOUS

13.1 No Party shall be entitled to assign or transfer its rights or obligations under this Agreement, except with the other Party's prior written consent. This shall not apply to wholly owned subsidiaries or affiliated companies of Hamburg Süd.

13.2 This Agreement is not intended to create, and shall not be construed as creating, a partnership or joint liability under the law of any jurisdiction. Nor shall any Party be considered an agent of any other Party unless expressly stated or constituted in writing.

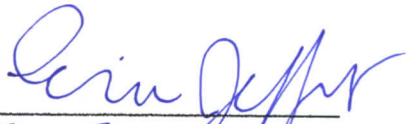
13.3 To the extent possible, all agreements, decisions, understandings, procedures and other arrangements made pursuant to this Agreement shall be read in conjunction with and interpreted as consistent with this Agreement. In the event of any conflict or inconsistencies, the terms of this Agreement shall always prevail and be paramount.



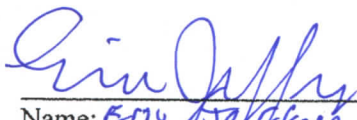
Signature Page

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by  
their authorized representatives as of this \_\_\_\_ day of April, 2016.

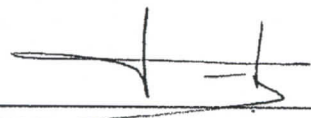
APL Co. Pte Ltd

  
Name: Eric Seffner  
Title: Authorized Signatory

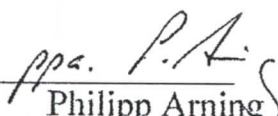
American President Lines, Ltd.

  
Name: Eric Seffner  
Title: Authorized Signatory

Hamburg Südamerikanische Dampfschiffahrts-Gesellschaft KG

  
Name: \_\_\_\_\_  
Title: **Frank Smet**  
**Member of the Executive Board**

Hamburg Südamerikanische Dampfschiffahrts-Gesellschaft KG

  
Name: Philipp Arning  
Title: Global Head of Network  
12/04/2016